IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

Writ Petition No.1406 of 2007

(Noor Ali s/o Memon Ali and another v. Trilok s/o Premchand Kewlani and others)

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Office Notes, Memoranda of Coram, appearances, Court's orders or directions : Court's or Judge's orders and Registrar's orders.

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Shri K.V. Thomas, Advocate for Petitioners.
Shri Rohit Joshi, Advocate for Respondents.

CORAM : R.C. Chavan, J.
DATE : 3rd December, 2007

1. This petition under Article 227 of the Constitution takes exception to the concurrent findings by both the Courts below that the petitioners are liable to be evicted on the ground of landlord's bona fide need.

2. The learned Advocate for the petitioners challenges the findings recorded by both the Courts below on the ground that while his clients were inducted as tenants by plaintiff No.1, in this case the evidence was tendered by plaintiff No.3.

3. The learned Advocate for the respondents pointed out that one of the grounds, viz. ground (N), raised in the memo of appeal before the first Appellate Court showed that the respondents did not regard plaintiff No.1 alone as owner of the property and in fact assailed the notice of termination issued by plaintiff No.1 only, when all the plaintiffs were co-owners of the property. It is strange that the petitioners assail notice of termination issued by one of the landlords, but are not ready to allow all the landlords to plead their combined need for the premises in question.

4. The learned Advocate for the petitioners next contended that the claim for recovery of possession on the ground of bona fide need is just an excuse to somehow evict the tenants. He pointed out that otherwise there was absolutely no reason to make allegations about non-payment of rent, which had not found favour with the Courts below.

This argument has to be rejected, because a party may fail to prove one of the grounds on which ejectment is sought. It does not mean that all the grounds are false. The judgments of the Courts below do not show that they suffer from any perversity or illegality to warrant interference in exercise of jurisdiction under Article 227 of the Constitution.

5. The petition is consequently dismissed.

JUDGE

pdl